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Mitch Fredrick Singer

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP

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SUITE 2100

SAN DIEGO, CA 92101

EXAMINER

JOO, JOSHUA

ART UNIT

PAPER NUMBER

2154

NOTIFICATION DATE

DELIVERY MODE

10/03/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTONotifications@procopio.com

Office Action Summary	Application No. 10/687,357	Applicant(s) SINGER ET AL.	
	Examiner JOSHUA JOO	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/09/08, 08/05/08</u> . | 6) <input type="checkbox"/> Other: _____ |

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Detailed Action

1. This Office action is in response to communication dated 08/05/2008.

Claims 1-21 are pending for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/09/2008 has been entered.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted 07/09/2008 and 08/05/2008 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

4. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-

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statutory subject matter.

Regarding claims 1, 15, and 16, Applicant is seeking to patent a network media environment comprising of servers and clients. Regarding claim 18, Applicant is seeking to patent a hub network comprising a server and client. According to Applicant's specification, Applicant intends for devices in the media network environment to be implemented as a self-contained software application (page 13, lines 30-31) and for the claimed invention to be implemented in computer software (page 54, lines 7-9). Therefore, the claimed invention is directed to software, and software does not meet one of the four categories of invention and is not statutory. Specifically, software is not a series of steps or acts and thus is not a process. Software is not a physical article or object and as such is not a machine or manufacture. Software is not a combination of substances and therefore not a composition of matter.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2-5, 10-12, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- i) Regarding claims 2, 4, 10-12, and 21, it is unclear which hub network “that hub network” is referring to in the claims.
- ii) Regarding claim 3, “the bound content bound” has insufficient antecedent basis.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-11, 13-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lipscomb et al.

US Patent #7,346,687 (Lipscomb hereinafter).

11. As per claim 1, Lipscomb teaches the invention as claimed including a network media environment, comprising:

a first hub network including a first server and a first client, and said first server is connected to said first client (col. 2, lines 49-51; col. 6, lines 28-29. Media player functions as client and/or server. col. 3, lines 5-11, 20-29; col. 4, lines 5-10; col. 6, lines 5-10. Multiple media players. A client may be a media player that accesses media from other media players or the portal. A first server may be a media player functioning as a server or the portal.);

a second hub network including a second server and said first client, and said second server is connected to said first client, such that said first hub network and said second hub network overlap (col. 3, lines 5-12, 26-29; col. 4, lines 5-10. A media player may function as a server to send media. Networks overlap since players can access content other players or the portal. Also, players may be within wireless range.);

wherein said first client stores first content bound to said first hub network and stores second content bound to said second hub network (col. 4, lines 31-36; col. 5, lines 64-65. Media player is able store media.), and

wherein content bound to a hub network is represented by locked content data and corresponding licenses stored on a server connected to the hub network, and the bound content can only be played or presented through a compatible compliant device that is bound to the hub network (col. 3, lines 44-48.

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Digital media may be protected, i.e. DRM, encryption. col. 4, lines 9-10, col. 11, lines 15-22. License permitting, a media player accesses media from another media player or the portal.).

12. As per claim 15, Lipscomb teaches the invention as claimed including a network media environment, comprising:

a first hub network including a first server and a first client, and said first server is connected to said first client (col. 2, lines 49-51; col. 6, lines 28-29. Media player functions as client and/or server. col. 3, lines 5-11, 20-29; col. 4, lines 5-10; col. 6, lines 5-10. Media player or TV may act as a client to receive media from a media player or the portal. A first server may be a media player functioning as a server or the portal.);

a second hub network including a second server and said first client, and said second server is connected to said first client, such that said first hub network and said second hub network overlap (col. 3, lines 5-12, 26-29; col. 4, lines 5-10. Multiple media players. A media player may function as a server to send media.);

wherein said first server stores first content in a first source version of locked content data (col. 3, lines 20-25; col. 6, lines 510. Portal may store media. col. 4, lines 31-36; col. 5, lines 64-65. Media player is able to store media. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption.),

said first server stores a first root license bound to said first hub network for said first source version (col. 3, lines 36-39. Portal may perform rights management. col. 4, lines 5-8. Licensed digital media.),

said second server stores second content in a second source version of locked content data (col. 4, lines 31-36; col. 5, lines 64-65. Media player is able store media. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption.),

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said second server stores a second root license bound to said second hub network for said second source version (col. 9, lines 18-21. Right restrictions for media in media player. col. 3, lines 44-48.

Digital media may be protected, i.e. DRM, encryption.),

said first client receives said first content streamed from said first source version by said first server (col. 3, lines 20-27. Media player receives stream from portal.), and

said first client receives said second content streamed from said second source version by said second server (col. 5, lines 5-10; col. 6, lines 34-38; col. 8, lines 5-7. Video is directed TV. Media player may play content from any connected server or access data from other media partners.), and

wherein a source version of locked content data which is bound to a hub network by a root license can only be played or presented through a compatible compliant device that is a member of the hub network (col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption. col. 4, lines 9-10, col. 11, lines 15-22. License permitting, a media player accesses media from another media player or the portal.).

13. As per claim 16, Lipscomb teaches the invention as claimed including a network media environment, comprising:

first hub network including a first server (col. 6, lines 28-29. Media player may function as a server. col. 3, lines 5-11, 20-29; col. 4, lines 5-10; col. 6, lines 5-10. A first server may be a media player functioning as a server or the portal.);

a second hub network including a second server and said first server, and said second server is connected to said first server, such that said first hub network and said second hub network overlap (col. 3, lines 5-12, 26-29; col. 4, lines 5-10. Multiple media players. A media player may function as a server to send media to the portal or other media players.);

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wherein said first server stores a first license and a first version of locked content data, and said first version stores first content, said first server stores a second license and a second version of locked content data, and said second version stores second content (col. 3, lines 20-25; col. 6, lines 5-10. Portal may store media assets. col. 4, lines 31-36; col. 5, lines 64-65. Media player is able to store media assets. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption.),

said first license is bound to said first hub network, said second license is bound to said second hub network (col. 9, lines 19-22. Right restrictions to media. col. 10, lines 39-44. Media subjected to licensing rights.), and

wherein a version of locked content data which is bound to a hub network by a license can only be played or presented through a compatible compliant device that is a member of the hub network (col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption. col. 4, lines 9-10, col. 11, lines 15-22. License permitting, a media player accesses media from another media player or the portal.).

14. As per claim 18, Lipscomb teaches the invention as claimed including a hub network, comprising:

a server storing a root license and a source version of locked content data (col. 6, lines 28-29. Media player may function as a server. col. 3, lines 5-11, 20-29. A first server may be a media player functioning as a server or the portal. col. 9, lines 18-21. Right restrictions for media in media player. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption.);

a client connected to said server, and storing a first license, a first sub-copy version of locked content data, a second license, and a second sub-copy version of locked content data (col. 4, lines 5-10, 31-36; col. 5, lines 64-65. Media player is able receive and store media from another media player or the portal. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption.);

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wherein said source version of locked content data stores first content (col. 3, lines 20-25; col. 6, lines 5-10. Portal may store media assets. col. 4, lines 31-36; col. 5, lines 64-65. Media player is able to store media assets.),

said root license is bound to said hub network, said first sub-copy version stores said first content, said first license is bound to said hub network, said second sub-copy version stores second content, and said second license is bound to another hub network (col. 9, lines 19-22. Right restrictions to media. col. 10, lines 39-44. Media subjected to licensing rights. col. 4, lines 5-10, 31-36; col. 5, lines 64-65. Media player is able receive and store media from another media player or the portal.),

wherein a source version of locked content data which is bound to a hub network by a root license can only be played or presented through a compliant device that is a member of the hub network (col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption. col. 4, lines 9-10, col. 11, lines 15-22. License permitting, a media player accesses media from another media player or the portal.).

15. As per claim 2, Lipscomb teaches the network media environment of claim 1, wherein said first server, said first client, and said second server are each compliant devices (col. 3, lines 5-10; col. 11, lines 15-22. Licensed playback device. Permit access to multiple media players.), and a compliant device that is a member of a hub network will not play or present bound content that is not bound to that hub network (col. 4, lines 9-10; col. 9, lines 61-65; col. 11, lines 15-22. Licensing permitting, any media player may access assets on any other media player.).

16. As per claim 3, Lipscomb teaches the network media environment of claim 1, wherein said first client stores said first content in a first sub-copy version having a first license bound to said first hub network and stores said second content in a second sub-copy version having a second license bound to said second hub network, and wherein a sub-copy version is a copy of the locked content representing the

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bound content bound to a hub network (col. 4, lines 31-36; col. 5, lines 64-65; col. 10, lines 39-44. Media player is able download and store media. col. 4, lines 9-10; col. 9, lines 61-65; col. 10, lines 29-32.

Media is associated with licensing rights.).

17. As per claims 4 and 21, Lipscomb teaches the invention of claims 3 and 18, wherein said first client is a compliant device (col. 3, lines 5-10; col. 11, lines 15-22. Licensed playback device. Permit access to multiple media players.), and a compliant device that is a member of a hub network will not present bound content that is not bound to that hub network (col. 4, lines 9-10, col. 11, lines 15-22. License restricts a media player to move or copy asset media from another media player or the portal.).

18. As per claim 5, Lipscomb teaches the network media environment of claim 3, wherein each sub-copy version has a corresponding license that is bound to only one hub network (col. 4, lines 9-10; col. 9, lines 61-65; col. 10, lines 29-32. Media is associated with licensing rights. col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players.).

19. As per claim 6, Lipscomb teaches the network media environment of claim 1, wherein said first server stores said first content bound to said first hub network, and said second server stores said second content bound to said second hub network (col. 3, lines 20-25; col. 6, lines 510. Portal may store media. col. 4, lines 31-36; col. 5, lines 64-65. Media player is able to store media. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption. col. 10, lines 43-45. Media associated with licensing rights. col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players.).

20. As per claim 7, Lipscomb teaches the network media environment of claim 6, wherein said first server stores said first content in a first source version of locked content data, and said second server

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stores said second content in a second source version of locked content data (col. 3, lines 20-25; col. 6, lines 510. Portal may store media. col. 4, lines 31-36; col. 5, lines 64-65. Media player is able to store media. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption. col. 10, lines 43-45. Media associated with licensing rights. col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players.).

21. As per claim 8, Lipscomb teaches the network media environment of claim 7, wherein said first source version has a corresponding first root license bound to said first hub network, and said second source version has a corresponding second root license bound to said second hub network (col. 3, lines 20-25; col. 6, lines 510. Portal may store media. col. 4, lines 31-36; col. 5, lines 64-65. Media player is able to store media. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption. col. 10, lines 43-45. Media associated with licensing rights. col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players.).

22. As per claim 9, Lipscomb teaches the network media environment of claim 1, wherein said first hub network defines a first local environment based on said first server, and said second hub network defines a second local environment based on said second server (col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players. col. 4, lines 9-10; col. 9, lines 61-65; col. 11, lines 15-22. Licensing permitting, any media player may access assets on any other media player. The portal or a media player communicates content and thus have local environments.).

23. As per claim 10, Lipscomb teaches the network media environment of claim 9, wherein a local environment for a hub network is a limited area defined relative to the server in that hub network (col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players. col. 4, lines 9-

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10; col. 9, lines 61-65; col. 11, lines 15-22. Licensing permitting, any media player may access assets on any other media player. The environment is limited to a network of permitted devices or within network range.).

24. As per claim 11, Lipscomb teaches the network media environment of claim 9, wherein a local environment for a hub network is a limited logical area defined relative to the position of the server in that hub network (col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players. col. 4, lines 9-10; col. 9, lines 61-65; col. 11, lines 15-22. Licensing permitting, any media player may access assets on any other media player. The environment is limited to a network of permitted devices or within network range.).

25. As per claim 13, Lipscomb teaches the network media environment of claim 1, wherein said first hub network has a first local environment, said second hub network has a second local environment, and said first local environment and said second local environment overlap such that said first sever, said first client, and said second server are each in both the first local environment and the second local environment (col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players. col. 4, lines 9-10; col. 9, lines 61-65; col. 11, lines 15-22. Licensing permitting, any media player may access assets on any other media player. The portal or a media player communicates content and thus have local environments. Furthermore, media player may access asset on the portal or other media players, thus the environment overlaps.).

26. As per claim 14, Lipscomb teaches the network media environment of claim 1, wherein said first client is connected to a terminal device for presenting content and said terminal device is not a member of said first hub network and is not a member of said second hub network (col. 2, lines 43-44. Media player

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connects to a television or monitor. First hub network considered as client and first server and second hub network considered as second server and first client.).

27. As per claim 17, Lipscomb teaches the network media environment of claim 16, wherein said second server stores a third license and a third version of locked content data, said third version stores said second content, and said third license is bound to said second hub network (col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players. col. 4, lines 31-36; col. 5, lines 64-65. Media player is able to store media assets. col. 3, lines 44-48. Digital media may be protected, i.e. DRM, encryption.).

28. As per claim 19, Lipscomb teaches the hub network of claim 18, wherein said hub network defines a local environment including said server and said client (col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players. col. 4, lines 9-10; col. 9, lines 61-65; col. 11, lines 15-22. Licensing permitting, any media player may access assets on any other media player. The environment is limited to a network of permitted devices or within network range.).

29. As per claim 20, Lipscomb teaches the hub network of claim 19, wherein said local environment is a limited area defined relative to said server (col. 3, lines 5-9; col. 11, lines 15-18. Scope of license permits access on certain media players. col. 4, lines 9-10; col. 9, lines 61-65; col. 11, lines 15-22. Licensing permitting, any media player may access assets on any other media player. The environment is limited to a network of permitted devices or within network range.).

Claim Rejections - 35 USC § 103

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30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lipscomb, in view of Rofheart et al. US Patent #7,058,414 (Rofheart hereinafter).

32. As per claim 12, Lipscomb does not specifically teach the network media environment of claim 9, wherein a local environment for a hub network is defined by travel time of packets within that hub network.

33. Rofheart teaches of defining an environment by travel time of packets with a network (col. 4, lines 5-8, 22-26).

34. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to define an environment by travel time of packets within a network. The motivation for the suggested combination is that Rofheart's teachings would provide an improvement to Lipscomb's teachings by reducing communication from unintended wireless devices as suggested by Lipscomb.

Conclusion

35. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

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36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Thursday 8AM to 5PM and every other Friday.

37. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

38. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. J./
Examiner, Art Unit 2154

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2154